

**MINUTES OF THE
LAND RECLAMATION COMMISSION MEETING
ROOM 470
GOVERNOR'S OFFICE BUILDING
200 MADISON STREET
JEFFERSON CITY, MISSOURI
MAY 1, 2014**

Vice Chairman Gregory Haddock called the meeting to order on May 1, 2014 at 10:10 a.m., at the Governor's Office Building, Room 470, located at 200 Madison Street, in Jefferson City, Missouri. Vice Chairman Haddock noted that there were technical difficulties with the audio/video equipment and that the meeting was being recorded by a secondary digital voice recording device. Dr. Haddock also explained the process regarding the request for a hearing on the agenda.

Commissioners Present: Dr. Gregory Haddock, Vice Chairman; Commissioner Paul Dickerson for John Madras; Commissioner Joe Gillman; Commissioner Mike Larsen. **Not Present:** Commissioner Leslie Gertsch; Commissioner Aaron Jeffries.

Staff Present: Kevin Mohammadi, Program Director; Lauren Cole; Bill Zeaman; Don Cripe; Beth Aubuchon; Larry Slechta; Teri Bibbs; Tucker Fredrickson; Greg Snellen; Kurtis Cooper; Dave Dowdy.

Others Present: Daren Eppley, Attorney General's Office; Larry Archer, Department of Natural Resources, Division of Environmental Quality Administration; Danny Lyskowski, General Counsel's Office, Department of Natural Resources; Mitch Roberts, Department of Natural Resources, Kansas City Regional Office; Andrea Collier, Department of Natural Resources, Kansas City Regional Office; Steve Rudloff, MLPA; Chris Thiltgen, Capital Quarries; Brian Smith, Smith Law Group P.C.; Scott Blankenship; Charles Spencer, Consulting Geologist; Bob Hartzler; Kathy Gravitt, Resident; Rod Gravitt, Resident; Jim Tosser, Resident; Pat Tosser, Resident; Bill Brown, Spectrum Strategies; Flip Short, The Family Ranch; Kevin Thomas, Thomas Crushing; Brad Burton, GBA; Brian Linnan, URS; Christine Bushyhead, MKL; Diane Tucker, APAC; Melody Gillette, Resident; Mike Carlson, Gredell.

Introduction of New Commissioner Mike Larsen

Agenda Item #2

Steve Feeler, Deputy Director of the Division of Environmental Quality, introduced new commissioner Mike Larsen. Commissioner Larsen was appointed by Governor Nixon in December and confirmed by the Senate in January. Mr. Feeler stated that Commissioner Larsen previously worked in the mining industry and also served as the Director of the Land Reclamation Program, among other positions within the Department. Mr. Feeler also stated that Commissioner Larsen was a dedicated, professional employee and thanked him for his previous service to the Department and for joining the Commission. Commissioner Larsen stated that it was his distinct pleasure to be a part of the Commission.

At this point (9:20 a.m.) the video feed went live.

Election of New Officers

Agenda Item #3

Commissioner Larsen made a motion to table this item until such time as the remaining members of the Commission can be present, hopefully in July. Commissioner Gillman seconded the motion. The motion passed unanimously. The item will be placed on the July 24, 2014 agenda.

Approval of November 21, 2013 Commission Meeting Minutes

Agenda Item #4

Commissioner Gillman made a motion to approve the November 21, 2013, Meeting Minutes as submitted. Commissioner Larsen seconded the motion. The motion passed unanimously.

INDUSTRIAL MINERALS

The Family Ranch, Request for a Hearing on Application

Agenda Item #5

Larry Slechta, Environmental Specialist III, Non-Coal Unit, presented a summary of this issue to the Commission. Mr. Slechta stated that the Land Reclamation Program received a new permit application from the Family Ranch, LLC, located in Jackson County, on November 22, 2013. Mr. Slechta also stated that the timeframe for mining is from May 2, 2014 to January 15, 2024. Mr. Slechta explained that the Family Ranch held a public meeting on February 6, 2014 with 69 people signing in, but the meeting did not satisfy all of the concerns of the petitioners who requested a meeting. Following receipt of the Staff Director's Recommendation and Attachment 1, petitioners who had requested a public meeting and were not satisfied with the results of the public meeting were allowed 30 days to submit a request for a formal public hearing. Mr. Slechta stated that the next step in the process was for the Commission to make a determination on whether or not petitioners who had requested a formal public hearing had established standing in accordance with 10 CSR 40-10.080(2).

Mr. Brian Smith, attorney for petitioner Ken Kerley and the company Green Living Properties LLC, was the first speaker from the public on this matter. Mr. Smith submitted Demonstrative Exhibits for the record. Mr. Smith stated that they were requesting a formal public hearing due to the impact to their health, safety and livelihood. Mr. Smith stated that the project would leave the Green Living Property as a "peninsula" by mining around three sides of the property. Mr. Smith stated that the Family Ranch was seeking to further mine out Bethany Limestone, which has been undermined but is currently in a stable situation in his opinion, and that the magnitude of the risk of this project needs to be calculated before the project proceeds. Mr. Smith referenced a report by Dr. Charles Spencer, and stated that Dr. Spencer's report indicated it would be imprudent at best to continue this project because the expert testing and expert reports necessary to make sure the adjacent property owners' health, safety, and livelihood are protected have not been completed. Mr. Smith also indicated that he believed this to be a unique case in the fact that the underground mine is not owned in its entirety by the company proposing the new mining operation, and only part of the underground mine will be reclaimed. Mr. Smith also referenced a peer report commissioned by the city of Lee's Summit prepared by Terracon that he stated clearly suggests the road is at risk and that it suggests and recommends that the area needs

to be properly mapped and engineers and the geological testing needs to be completed to determine the risk to the adjacent landowners before moving forward.

Mr. Charles Spencer, a geologist hired by Green Living, was the next speaker on this matter. Mr. Spencer stated that observational evidence alone is not sufficient for determining risk; however, it is used as a basis in determining site conditions and used as a guide. Mr. Spencer also stated that the geological reports that have been performed should be used as cautionary documents. Mr. Spencer stated that it is his opinion that the condition of the mine is currently stable based on his walk through on the Gravitt property to Green Living Properties, which he pinpointed on a map for the Commission. Mr. Spencer stated that the area was free of major rock falls or roof sags and the pillar diameter was typical. Mr. Spencer also stated that the pillar spacing was more irregular and wider proceeding east. Mr. Spencer gave a description of the rock layers, including type and thickness, in this area. Mr. Spencer indicated that he believed reclamation activities were capable of impacting the Bethany Fall's Limestone as well as the overlying Winterset Limestone, and that further geotechnical study was needed to determine the potential extent of impact.

Mr. Rod Gravitt was the next speaker. Mr. Gravitt read a letter from Ms. Ann Finrock, who he stated was unable to attend the meeting due to the date change. Ms. Finrock's letter detailed her concerns for her health, safety and livelihood. Ms. Finrock's letter stated that she is 88 years old and has chronic bronchitis, which she wrote will be aggravated by dust from the mining operation. Ms. Finrock's letter also stated that she fears the communication tower that is located on her property will be moved because the company will have the same uncertainty she has about the impacts of this operation, and if the communication tower is moved it will decrease her livelihood by more than 50 percent. Ms. Finrock's letter also mentioned an email dated April 2, 2014 from Flip Short in which he stated that they are taking out 100 percent of the residents, but Ms. Finrock stated in her letter that she has not received any offer on her property.

Following reading Ms. Ann Finrock's letter, Mr. Rod Gravitt spoke regarding his own concerns for health, safety and livelihood in regard to the mining operation. Mr. Gravitt stated that this project may drastically compromise his property and render it useless. He also questioned if the removal of large slabs that had taken place on the Family Ranch property over the last few weeks was a violation of the land disturbance permit. Mr. Gravitt also stated that he has concerns with the experience level of the applicant and stated that none of the persons involved have done any reclaiming of abandoned mines. Mr. Gravitt further expressed concerns over collapse of the road, because there is only one road in and out, leaving no way for emergency services to get to the area. Mr. Gravitt explained to the Commission that he plans to use his portion of the mine to grow mushrooms as a means of income, and this would be impacted by the mining operation. Mr. Gravitt implored the Commission not to grant the permit. The Commission asked Mr. Gravitt where the communication tower was located and Mr. Gravitt explained that it is farther west but still on the mine.

Ms. Kathy Gravitt addressed the Commission on behalf of Deanna Boehan, who runs a foster group home out of her residence with up to six (6) children between the ages of 1 and 21 with elevated behaviors. The letter from Ms. Boehan stated that she is licensed by MFCOA, a state contracted agency, and that she is concerned that the state will not allow her to keep the children

because of the environment created by the mining operation. Ms. Boehan's letter explained that she originally lived in town when she began fostering children, but she moved to her current home because of problems with neighbors in town but still needing to be close enough for visits with professionals for the children. Ms. Boehan also stated in her letter that she is not allowed to work outside of the home due to the severity of the conditions of the children she fosters so if she loses the children due to safety concerns from the mining she will lose 100 percent of her income. Commissioner Larsen asked where Ms. Boehan's home is located and Ms. Gravitt identified the location on the map.

Mr. Scott Blankenship, owner of All About Tree Care, spoke about his concerns for the safety of the mine employees and the possibility of a road collapse.

Mr. James Tosser spoke of his concerns about the precedent this permit would set because the applicant does not own the whole mine and the neighboring owners are opposed to the operation. Mr. Tosser expressed concerns of unintended mine roof collapses and the danger they would pose to workers. Mr. Tosser also had concerns relating to water control. Mr. Tosser questioned if there was a plan in place in the case of heavy rains, such as what will happen with all the water and where it will go, as well as mine floor contamination of the water. Mr. Tosser also mentioned concerns with the dust that would be produced from the operation.

Ms. Melody Gillette, who owns ten (10) acres of land on Clifford Road, stated that her biggest concern is that many specific questions were asked of the applicant at the public meeting which Christine Bushyhead, MKL, and Flip Short, applicant, were unable to answer. Ms. Gillette stated that Ms. Bushyhead and Mr. Short took notes at the meeting and said they would get back with the people, but no one has gotten back with them. Ms. Gillette stated that she is concerned with the safety of her family. Ms. Gillette also expressed concerns about the ability to sell her house if necessary, which is where most of her assets are, if the mining project is approved. Finally, Ms. Gillette stated that the city of Lee's Summit said the Family Ranch has to end mining 50 feet from her property, which will be in the middle of the mine. Ms. Gillette questioned how this would be done, such as a wall placed in the mine at that distance and how that would be constructed.

Mr. Bob Hartzler stated that he would be affected in most of the same ways as the others who had spoken before him.

Ms. Christine Bushyhead, MKL law firm, represents the Family Ranch. Ms. Bushyhead introduced the members of the team and spoke about the experience of the members. Ms. Bushyhead gave a timeline summary of the previous meetings and also stated that around 106 letters were received for a public meeting, down to 22 letters for a public hearing so some questions had been answered. Ms. Bushyhead pointed out that the Director's Recommendation includes conditions for the permit that they find acceptable and that there is a requirement for a road maintenance agreement that has been drafted but not executed yet that is part of the ten (10) year Special Use Permit granted by the city. Ms. Bushyhead submitted a copy of Kevin Thomas' resume and a copy of the presentation for the record. Ms. Bushyhead also explained to the Commission that there is an asphalt plant and a concrete plant in the area that have been there for several years. Ms. Bushyhead noted that the air permit for the operation will have dust control

measures.

Mr. Brian Linnan, URS, stated that he is well versed in underground mines and how they work. Mr. Linnan explained the mapping process URS uses to determine if conditions in an undermined area are favorable for development above or in the mine depending on stability. Mr. Linnan also explained that the 2003 URS report recommendation for further study was only if development was going to occur above or in the mine. Mr. Linnan also stated that from a geotechnical perspective the adjacent structures and road are not safe and would not have been recommended to be built in the location. Mr. Linnan opined that the mine needs to be removed to remove the threat of sinkholes. Mr. Linnan explained that a seismograph study had been conducted of hoe ramming vibrations and that the vibrations were half the recommended level at 10 feet from the hoe ramming and 100 times less at 180 feet away. Ms. Bushyhead stated that URS will be on contract for this project.

Mr. Brad Burton, P.E., GBA, stated that he is a civil engineer registered in the state of Missouri, as well as other states, with 29 years of experience. Mr. Burton explained the water retention plan to the Commission. Mr. Burton stated that the water in the pit would be used for dust suppression. Mr. Burton also stated that the company would be backfilling as it mined the area. Commissioner Larsen asked if there was a possibility of discharge and Mr. Burton stated that there was not a possibility of the water coming out of the pit; there will only be surface runoff, and they anticipate the grades will mimic the drainage patterns there today. Mr. Burton also listed some of the control measures that will be used, such as rock checks and berms.

Commissioner Gillman asked about the relationship between Green Living and Scott Blankenship. Mr. Blankenship explained that there are two (2) homes at two (2) addresses: one home is rented out and the other is used as offices and storage for the business. There was also discussion about the offer made to Green Living and Ms. Bushyhead stated that they have not been able to go on the property with an appraiser to determine an amount to offer.

Commissioner Larsen then asked about the reason the Family Ranch decided not to use explosives. Ms. Bushyhead stated that it was because of cost and being sensitive to the concerns of the neighbors. Commissioner Larsen also questioned if the applicant was cleared by the city of Lee's Summit to mine since they are in an agriculturally zoned area, and Ms. Bushyhead explained that they were cleared with the Special Use Permit obtained from the city, which contains 11 conditions.

Commissioner Larsen noted that the area north and south of I-470 had been undermined and asked if I-470 itself had been undermined and he also asked if MoDOT was aware of this project and what their response was. Mr. Bill Brown, Spectrum Strategies, said that I-470 has been undermined and stated that he has spoken with Matt Killian, Deputy District Engineer for MoDOT and they don't have any concerns with the project.

Vice Chairman Haddock then asked for clarification on the 40 foot or 50 foot buffer relative to the proposed lateral support measures near the Green Living property, which Mr. Burton provided. Commissioner Larsen asked if the Mine Safety and Health Administration (MSHA) had any involvement in the project at this point. Mr. Kevin Thomas, Thomas Excavating

answered Commissioner Larsen's inquiries and stated that he has worked extensively with MSHA on past projects and that although no crusher is on site yet, they have been out to the site three (3) times and MSHA has already assigned the location an ID number.

A motion was made by Commissioner Larsen to go into closed session in accordance with section 610.021 RSMo for purposes of actions of litigation, legal actions and personnel actions, and any confidential or privileged communication between the commission and its attorney along with a break for lunch and returning at 1:00 p.m. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Larsen: yes
Commissioner Dickerson: yes
Commissioner Gillman: yes
Vice Chairman Haddock: yes

The motion passed with 4 yes votes. The Commission met in closed session and returned to open session at 1:00 p.m. Vice Chairman Haddock again called the meeting to order.

Commissioner Larsen made a motion that as a result of all the information provided to the Commission the petitioners have not demonstrated standing as defined by law and regulation and the Commission deny the request for a hearing in the matter of the Family Ranch proposed 70 acre limestone operation in Jackson County. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Dickerson: yes
Commissioner Gillman: yes
Commissioner Larsen: yes
Vice Chairman Haddock: yes

The motion passed with 4 yes votes.

A motion was made by Commissioner Gillman to accept the recommendation of the Land Reclamation Program to issue the new permit 1105 sought by the Family Ranch in Jackson County and to accept and the conditions found in the March 7, 2014 letter to the Commission from Kevin Mohammadi. Commissioner Larsen seconded the motion. A roll call vote was taken.

Commissioner Dickerson: yes
Commissioner Gillman: yes
Commissioner Larsen: yes
Vice Chairman Haddock: yes

The motion passed with 4 yes votes.

Colonial Limestone, Reclamation Liability Release

Agenda Item #6

Bill Zeaman, Environmental Specialist IV, Non-Coal Unit, presented this item to the Commission. Mr. Zeaman explained that the Commission revoked the permit and forfeited the bond on two (2) sites operated by Colonial Limestone, Inc. on September 17, 2008 due to the company's failure to renew the permit and properly reclaim two (2) permitted sites. Mr. Zeaman also stated that the Staff Director has evaluated and recommends approval of Site 1 for release of reclamation responsibility. The landowner was notified and does not object to the proposed release.

Commissioner Larsen asked if any bond forfeiture funds were spent on this site and Mr. Zeaman stated that there were not; the company did some of the reclamation and the landowner might have done some as well.

Commissioner Larsen made a motion to accept staff's recommendation for release of Site 1 consisting of 12 acres in Putnam County formerly operated by Colonial Limestone. Commissioner Gillman seconded the motion. A roll call vote was taken.

Commissioner Gillman: yes
Commissioner Larsen: yes
Commissioner Dickerson: yes
Vice Chairman Haddock: yes

The motion passed with 4 yes votes.

APAC-Kansas, Inc., Reclamation Update

Agenda Item #7

Larry Slechta, Environmental Specialist III, Non-Coal Unit, reported on this agenda item to the Commission. Mr. Slechta explained to the Commission that the property was sold to a new owner, who did not renew the lease that was in place with APAC for mining rights. Mr. Slechta further stated that APAC immediately stopped mining, and the issue is that the landowner wants the highwall at a 40 degree slope as stated in the mine plan, but APAC claims that isn't possible because they were unable to continue mining to get the highwall to that point. APAC is not asking for a release at this time. There was no action required by the Commission. This summary was provided for the Commission's information. The Commission thanked him for his report.

Summary of Industrial Mineral Bond Release Requests Approved by the Program Director

Agenda Item #8

Larry Slechta, Environmental Specialist III, Non-Coal Unit, reported on this agenda item to the Commission. There was no action required by the Commission. This summary was provided for the Commission's information. The Commission thanked him for his report.

Activities Report for Calendar Year 2013

Agenda Item #9

Kevin Mohammadi, Staff Director of the Land Reclamation Program, reported on this agenda item to the Commission. This report is required by the 2001 changes to the *Land Reclamation Act*. Director Mohammadi presented the Commission with the total income, total expenses and number of employees, permits, active sites, bond releases, inspections, enforcement, public meetings, and hearing requests during calendar year 2013. Commissioner Larsen asked about the hearing request that had been granted. Director Mohammadi responded that a hearing request was granted in the matter of AA Quarry and that Bart Tichenor was the Hearing Officer. Director Mohammadi also stated that they are currently performing depositions in the matter. Commissioner Larsen also stated that he was impressed with the number of inspections performed, particularly because the same staff performing those inspections also reviewed and issued all the permits as well. There was no action required by the Commission. The Commission thanked him for his report.

PERMITS, CONTRACTS AND DESIGN

Abandoned Mined Lands Status Update

Agenda Item #10

Greg Snellen, Environmental Specialist III, Contracts and Design Unit, reported on this agenda item. Mr. Snellen gave a brief overview of the projects the Abandoned Mine Land Unit is working on. There was no action required by the Commission. The Commission thanked him for his report.

Coal Permitting Update

Agenda Item #11

Greg Snellen, Environmental Specialist III, Contracts and Design Unit, reported on this agenda item to the Commission. Mr. Snellen explained that on April 7, 2014 the Land Reclamation Program issued a permit expansion for the Hume West Mine for 111 acres, making the total permitted area 279 acres for this permit. There was no action required by the Commission. The Commission thanked him for his report.

Swift Highwall Reclamation Project Contract Award

Agenda Item #12

Dave Dowdy, Environmental Specialist III, Contracts and Design Unit, reported on this agenda item. Mr. Dowdy explained the four (4) areas of work for this project, which is located in Henry County. There was no action required by the Commission. The Commission thanked him for his report.

OTHER

Comments from the Public

Agenda Item #13

There were no comments from the public.

ADJOURNMENT OF MEETING

A motion was made by Commissioner Gillman to adjourn the meeting. Commissioner Larsen seconded the motion. A roll call vote was taken.

Commissioner Larsen: Yes
Commissioner Dickerson: Yes
Commissioner Gillman: Yes
Vice Chairman Haddock: Yes

The motion passed with 4 yes votes.

The Meeting adjourned at 1:50 p.m.

Respectfully submitted,

Chairman